

AUG 29 2008

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

DARIN D. LAGRONIO,

Plaintiff - Appellant,

v.

ROBERT M. GATES^{**}, Secretary,
Department of Defense, Army & Air Force
Exchange Service (AAFES); JOHN
DOES, 1-10; JANE DOES, 1-10; DOE
ENTITIES 1-10,

Defendants - Appellees.

No. 07-15562

D.C. No. CV-05-00724-SPK

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Hawaii
Samuel P. King, District Judge, Presiding

Argued and Submitted June 19, 2008
Honolulu, Hawaii

Before: GOODWIN, RYMER, and IKUTA, Circuit Judges.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} Robert M. Gates is substituted for his predecessor, Donald H. Rumsfeld, as Secretary, Department of Defense, Army & Air Force Exchange Service. Fed R. App. P. 43(c)(2).

Darin Lagronio challenges the district court's dismissal of his Title VII retaliation action against the Army and Air Force Exchange Service (AAFES). We affirm.

Lagronio claims that AAFES issued him a 14-day suspension order in retaliation for Lagronio's filing a complaint with the Equal Employment Opportunity Commission (EEOC).¹ Because Lagronio failed to show a causal link between filing the EEOC complaint and the 14-day suspension order, he failed to raise a triable issue of material fact that AAFES's actions were retaliatory in violation of Title VII. *See Noyes v. Kelly Servs.*, 488 F.3d 1163, 1168 (9th Cir. 2007). Lagronio's theory that Neddo issued the suspension order in retaliation for Lagronio's EEOC complaint is not supported by the record, because there is no evidence that Neddo was responsible for issuing the suspension order. Nor does Lagronio argue that Neddo's retaliatory animus can be imputed to the actual decisionmaker. *See Poland v. Chertoff*, 494 F.3d 1174, 1182–83 (9th Cir. 2007). Moreover, no inference of causation arises due to the proximity of the EEOC filing and the issuance of the suspension order because more than a year passed between

¹Because Lagronio does not develop his arguments with respect to the other claims dismissed by the district court, we deem those claims to be abandoned. *See United States v. Berber-Tinoco*, 510 F.3d 1083, 1089 n.2 (9th Cir. 2007); *see also* FED. R. APP. P. 28(a)(9)(A).

these two events. *See Cornwell v. Electra Cent. Credit Union*, 439 F.3d 1018, 1035 (9th Cir. 2006); *see also Manatt v. Bank of Am., NA*, 339 F.3d 792, 802 (9th Cir. 2003). Finally, Lagronio has also failed to raise a triable issue of material fact that AAFES's reasons for issuing the suspension order (Lagronio's insubordination and inappropriate comments) were pretextual. Lagronio adduced no evidence that his conduct was not punishable under AAFES policy or that a 14-day suspension was unusually long in context. Although Lagronio argues his conduct during his interaction with Vinson and Cretzinger did not warrant a 14-day suspension, the suspension order itself indicates the suspension was based on Lagronio's conduct the day after that incident.

AFFIRMED.